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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,496

05/23/2006

Jozef Hieronymus Maria Raijmakers

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

CHAWAN, SHEELA C

ART UNIT

PAPER NUMBER

2624

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,496	<b>Applicant(s)</b> RAIJMAKERS ET AL.	
	<b>Examiner</b> SHEELA C. CHAWAN	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

**Priority**

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

**Preliminary Amendment**

2. Preliminary amendment filed on 5/23/06 has been entered.

**Drawings**

3. Fig 3, is objected because in Fig 3, element 31 is missing.

**Claim Objections**

4. Claim 12 is objected to because of the following informalities:

In claim 12, line 5, change “,” to - - ; - - .

Appropriate correction is required.

**Specification**

5. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

**Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase “Not Applicable” should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 4, "selection means for selecting preferred data from a collection of data, connected with" as recited vague and unclear.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-13 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent<sup>1</sup> and recent Federal Circuit decisions<sup>2</sup> indicate that **a statutory “process” under 35 U.S.C. 101** must **(1)** be tied to a machine or **(2)** transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claims recite a series of steps or acts to be performed, the claims neither transform underlying subject matter nor are positively tied to another statutory category that accomplishes the claimed method steps, and therefore does not qualify as a statutory process. The recited steps of **“offering the person a collection of data from which a selection may be made, displaying data in the medical environment, based on the selection made by the person”** neither transform underlying subject matter nor positively tie to a machine that accomplished the claimed method steps. In order for process to be “tied” to a machine, the structure of a machine should be positively recited in a step or steps significant to the basic inventive concept, and NOT just in association with statements or intended use or purpose, insignificant pre or post solution explicitly, or implicitly.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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<sup>1</sup> *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

<sup>2</sup> *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 3, 5-13 are rejected under 35 U.S.C. 102(e) as being anticipated by August (US. 6,641,522 B2).

As to claim 1, August discloses system for providing a personalized experience to a person in a medical environment (abstract), comprising:

- selection means for selecting preferred data from a collection of data, connected with (column 2, lines 41-47, column 7, lines 26- 35, column 16, lines 44- 67),
- control means (note, the patient is provided with the option of choosing one or more still, natural landscape scenes to which the patient is believed to have an innate positive (biophilic- environmental conditions (picture, sounds etc, which make someone good or give them a feeling of comfort) affinity. This scene is scanned into a computer and then transferred to a flexible, high resolution fabric that is attached to the hospital curtain at the foot end of the patient's bed or the ceiling , column 7, lines 36- 43), for controlling display means (column 14, lines 29- 38, column 19, lines 1- 26, fig 18A, element 312) for displaying the selected data (column 17, lines 3-27)in the medical environment (fig 6 column 16, lines 60-67).

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As to claim 2, August discloses system as claimed in claim 1, wherein the data comprise visual data (note, visual data corresponds to biophilic picture, fig 1, 12, column 14, lines 53- 57).

As to claim 3, August discloses system as claimed in claim 2, wherein the visual data comprise still images (fig 1, element 12 biophilic picture are still images).

As to claim 5, August discloses system as claimed in claim 1 wherein the display means comprise at least one projector for projecting the visual data on surfaces of the environment (fig 6, 67, position biophilic picture in substantially optimal location for view by patent).

As to claim 6, August discloses system as claimed in claim 1, wherein the data comprise audio data (fig 6, element 63, 64 and 65).

As to claim 7, August discloses system as claimed in claim 1, wherein the selection means (column 16, lines 44- 67) comprise at least one identifier element comprising predetermined data, and the control means comprise reading means for reading the data comprised in the identifier (note, identifier corresponds to a plurality of images (such as pictures 12, 42, 52, 72 or 82 appropriate for person 60).

As to claim 8, August discloses system as claimed in claim 1, wherein the identifier element comprises an identifier chosen from a group of radio frequency transponders (note, radio frequency transponders corresponds to visual and audio data column 14, lines 35- 39, 53- 67, column 15, lines 1- 3) and barcodes, and the reading means comprise a reader chosen from a group of radio frequency readers and barcode

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readers (note, identifier or barcode corresponds to a plurality of images (such as pictures 12, 42, 52, 72 or 82 appropriate for person 60).

As to claim 9, August discloses system as claimed in claim 1, wherein personal data of the person can be included in the collection of data (column 16, lines 60-67, column 17, lines 1-27).

As to claim 10, August discloses system as claimed in claim 1, wherein the personal data can be sent via a public switching network to be included in the collection of data (column 14, lines 31- 39, column 15, lines 1-3, column 19, lines 27- 38, 46-49).

As to claim 11, August discloses system as claimed in claim 1, wherein the environment comprises one of a group of hospital rooms, including medical treatment rooms, medical examination rooms, waiting rooms, and patient recovery rooms ( column 14, lines 48- 52).

Regarding claim 12, it is interpreted and thus rejected for the same reasons as applied above in the rejection of claim 1.

As to claim 13, August discloses method as claimed in claim 12, wherein the patient is offered a collection of identifiers from which a selection may be made, each identifier comprising predetermined data which are readable by a reader comprised in the medical environment, to control the display of data in the environment (column 14, lines 31- 39, column 15, lines 1-3, column 19, lines 27- 38, 46-49).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all



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obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over August (US. 6,641,522 B2), as applied to claims 1-3, 5-13 above and further in view of Cromer et al., (US. 6,870,673 B2).

Regarding claim 4 August disclose a method and system for promoting patient relaxation, reducing patient stress and expediting patient recovery by exposing the patient to external stimuli. The stimuli can be visual, auditory and/or olfactory. The patient is provided with the option of choosing one or more still, natural landscape scenes to which the patient is believed to have

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an innate positive (biophilic) affinity. August is silent about the visual data comprise moving images.

Cromer discloses the present invention relates to a system that provides biosynchronized therapy to a user. Biosynchronized therapy provides a patient with a therapeutic environment and therapeutic stimulations that are sensitive to psychological and sensory human issues, including those particular to the patient, and that reduces psychological stress experienced by the patient so that other forms of treatment provided to the patient are enhanced and benefited. Cromer refers to components relating to "video," "screens," "projected" images, etc., any manner of displaying images onto a screen or surface is adaptable. Specifically, "image projection system" or an "image source", this term is intended to indicate that either still or moving images are displayed by projection or direct display. This phrase does not limit the invention to projected slides, video or video related display mechanisms. Further, any type of images may be displayed on the screen(s) of the present invention including still images (i.e., "slides"), arbitrary light patterns as from prism refraction, color filters, shadowing, etc. In addition, the images could be stored analog or digital images from a stored file such as a video tape, a DVD or other well known source that store multiple images such as movies. A digital camera providing a recorded or live feed could also be used as the image source (column 10, lines 19-36).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified August to include moving images. It would have

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been obvious to one of ordinary skill in the art at the time of the invention to have modified August by the teaching of Cromer in order to determine the images provided on the image screen can be calming to the patient and possibly stimulate his healing process. These images can be stills (individual images) or moving pictures (dynamic and continuous--like a movie). When still images are used, the image can also be automatically changed so that the person viewing them does not become bored, depressed or irritable. The images also provide the person with the opportunity to view people, pets or locations that are very important to him and that provide him great comfort or motivation for recovering quickly (as suggested by Cromer at column 5, lines 40-50).

***Other prior art cited***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kato et al., (US. 6,764,743 B2) discloses porous honeycomb structure and process for production thereof.

Rai et al., (US. 5,184,190 ) discloses method and apparatus for detecting flaws and defects in heat seals.

Kondo et al., (US. 4,319,840) discloses Method and a device for inspecting bodies having a multiplicity of parallel channels extending there through.

***Contact Information***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEELA C. CHAWAN whose telephone number is (571)272-7446. The examiner can normally be reached on 7.30- 5.00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Werner can be reached on 571-272-7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sheela C Chawan/

2/14/09

Primary Examiner, Art Unit 2624

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